IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6306 of 2007()

CRIME NO. 16/04 OF DEVIKULAM POLICE STATION
CRMP.2956/2007 of DISTRICT COURT, THODUPUZHA

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PETITIONER/A1 & 2

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1. MUTHU RAMALINGAM, S/O MARIMUTH,
   AGED 28 YEARS, CHILAMBIARKARA,
   KOTTAMKAMBOOR VILLAGE, DEVIKULAM TALUK,
   IDUKKI DISTRICT.

2. MARITHEVAR, S/O PULAYA,
   CHILAMBIARKARA, KOTTAMKAMBOOR VILLAGE,
   DEVIKULAM TALUK, IDUKKI DISTRICT.

BY ADV. SRI.TOM JOSE (PADINJAREKARA)

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   DEVIKULAM POLICE STATION,
   IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6306 of 2007

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Dated this the 17th day of October, 2007

O R D E R

The petitioners face indictment in a prosecution for offences punishable under the Kerala Abkari Act. Investigation is complete. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioners have not appeared before the learned Magistrate so far. Coercive process have been issued against the petitioners. They now find such processes chasing them.

2. According to the petitioners they are absolutely innocent. Their failure/omission to appear earlier was not wilful, but was due to reasons beyond their control. They are willing to surrender before the learned Magistrate and seek bail. But they apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

3. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the applications for bail to be filed by the petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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